



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,201	04/07/2006	Bjarne Due Larsen	50412/015002	5189
21559	7590	11/13/2009	EXAMINER	
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			AUDET, MAURY A	
			ART UNIT	PAPER NUMBER
			1654	
			NOTIFICATION DATE	DELIVERY MODE
			11/13/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10534201	4/7/06	LARSEN ET AL.	50412/015002

CLARK & ELBING LLP  
101 FEDERAL STREET  
BOSTON, MA 02110

**EXAMINER**

MAURY AUDET

ART UNIT	PAPER
1654	20091109

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The metes and bounds of the claimed invention of formula I, relevant to claims 1, 56-57, 61-73, 75-80, and 83-84, are confusingly claimed, in that elements x, q, and d are not even to be present. A 1-month (30 days) period for response is set.

Since Applicant has support in the specification description for these elements to be omitted from formula I, Applicant is asked to amend the claimed invention to expressly delete reference to x, q, and d. Additionally, so that there is no confusion that these are actually supposed to be retained and present in a variable situation (e.g. like elements a and b, where when a is present b is absent and when b is present, a is absent).

Additionally, relevant to the latter situation, Applicant is really claiming 2 subgenus compounds of formula 1: namely, a 1<sup>st</sup> subgenus where a is present and b is absent, or b is present and a is absent. Thus, in order to distinctly claim the invention, it is suggested that the preamble be kept, but that 2 distinct compound subgenres be distinctly claimed:

1. a 1<sup>st</sup> compound structure subgenus, removing b entirely and leaving only a (and removing the limitation that "a" is "1");
2. a 2nd compound structure subgenus thereunder (with the term "OR" in between the 2 subgenus structures), removing a entirely and leaving only b (and removing the limitation that "b" is "1").

Thereafter, leaving the respective elements found in both subgenus to be defined afterwards (z, p, y each as "1"; R1-R3, and Rx).

This will ensure that the metes and bounds of the 2 subgenus are distinctly claimed and remove issues of variable scenarios. And that the updated search of the art is properly applied against the 2 respective subgenus structures of the claimed invention.

This request is made in order to distinctly claim the invention, commensurate in scope with the actual elements that are to be present in the claimed invention.

**Conclusion**

As previously noted, claims 85-89 are presently allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURY AUDET whose telephone number is (571)272-0960. The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA, 9/9/2009

/Maury Audet/  
Examiner, Art Unit 1654  
Full Sign. Auth. Program

/Maury Audet/  
Examiner, Art Unit 1654  
Full Sign. Auth. Program